

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<http://oversight.house.gov>

February 13, 2019

The Honorable Andrew R. Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator Wheeler:

The Committee is requesting documents relating to potential conflicts of interest arising from your work as a lobbyist for Faegre Baker Daniels Consulting (Faegre) in the two years before you were confirmed as Deputy Administrator of the Environmental Protection Agency (EPA).

Before your appointment as Deputy Administrator, from 2009 to 2017, you worked as a lobbyist for Faegre.¹ According to quarterly disclosure reports filed by Faegre, you engaged in lobbying activities on behalf of Darling Ingredients, Inc. from April 1, 2015, to May 31, 2016.² These reports, filed throughout 2015 and 2016, indicate that Darling paid \$270,000 to Faegre for the lobbying services provided by you and two other employees at the firm during this period.³

The Senate confirmed your nomination to serve as Deputy Administrator on April 12, 2018, and you were sworn in on April 20, 2018.⁴

The Ethics in Government Act requires federal officials to disclose the source of any compensation greater than \$5,000 in any of the two calendar years prior to the reporting year and to provide "a brief description of the nature of the duties performed or services rendered by the

¹ Faegre Baker Daniels Consulting, *Andrew R. Wheeler* (online at <https://web.archive.org/web/20180413001117/https://www.faegrebd.com/andrew-wheeler>) (accessed Feb. 11, 2019).

² FaegreBD Consulting, *Second Quarter 2015 to Second Quarter 2016 Lobbying Disclosure Reports on Behalf of Darling International* (online at <https://bit.ly/2TKV8j4>) (accessed Feb. 12, 2019).

³ *Id.*

⁴ Environmental Protection Agency, *U.S. Senate Confirms Andrew Wheeler to Serve as Deputy EPA Administrator* (Apr. 12, 2018) (online at www.epa.gov/newsreleases/us-senate-confirms-andrew-wheeler-serve-deputy-epa-administrator); Environmental Protection Agency, *Andrew Wheeler Just Sworn in Today as Our New Deputy Administrator. Welcome Back to the EPA!* (Apr. 20, 2018) (online at twitter.com/epa/status/987383700773048321?lang=en).

reporting individual for each such source.”⁵ On August 12, 2017, you submitted your financial disclosure report to the Office of Government Ethics for the period between January 1, 2015, to August 12, 2017, but you did not report Darling Ingredients as a source of compensation.⁶

In addition, as a condition of your appointment under Executive Order 13770, you are prohibited from participating “in any particular matter involving specific parties” that is directly and substantially related to your former employer or former clients for two years after your appointment.⁷

On June 26, 2018, your calendar shows that you met with representatives from Darling Ingredients in your capacity as Deputy Administrator.⁸ Your direct participation in this meeting appears to violate Executive Order 13770 and contradict your expressed commitment to follow those provisions during your government service.⁹

For these reasons, we request that you produce the following documents by February 27, 2019:

1. Documents sufficient to show your total compensation for lobbying activities conducted on behalf of Darling Ingredients from January 1, 2015, to August 12, 2017;
2. A complete list of all meetings you attended with representatives of Darling Ingredients from April 20, 2018, to the present;
3. All documents referring or relating to any meeting you attended with representatives of Darling Ingredients from April 20, 2018, to the present;
4. All documents and communications between you and any EPA employee referring or related to Darling Ingredients from April 20, 2018, to the present;
5. All documents and communications between you and employees or agents of Darling Ingredients from April 20, 2018, to the present;

⁵ 5 U.S.C. app. § 102(a)(6).

⁶ Andrew Wheeler, *Executive Branch Personnel Public Financial Disclosure Report* (Aug. 12, 2017) (online at www.documentcloud.org/documents/4387529-Andrew-Wheeler-Financial-Disclosure.html).

⁷ Exec. Order No. 13770, 82 Fed. Reg. 9333 (Feb. 3, 2017) (online at www.federalregister.gov/documents/2017/02/03/2017-02450/ethics-commitments-by-executive-branch-appointees).

⁸ Environmental Protection Agency, *Calendar for Andrew Wheeler, Acting Administrator* (June 26, 2018) (online at www.epa.gov/senior-leaders-calendars/calendar-andrew-wheeler-acting-administrator).

⁹ Letter from Andrew Wheeler, Deputy Administrator, Environmental Protection Agency, to E. Scott Pruitt, Administrator, Environmental Protection Agency (May 24, 2018) (online at [apps.washingtonpost.com/g/documents/national/epa-acting-administrator-andrew-wheelers-recusal-letter/3134/](https://www.washingtonpost.com/g/documents/national/epa-acting-administrator-andrew-wheelers-recusal-letter/3134/)).

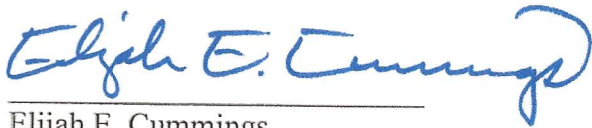
6. A list of all clients you represented as a lobbyist during the two years prior to your appointment as Deputy Administrator of the EPA; and
7. A list of all the agencies you lobbied during the two years prior to your appointment, with a description of any matters you worked on during that time.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to this request. If you have any questions, please contact Committee staff at (202) 225-5051.

Thank you for your prompt attention to this request.

Sincerely,



Elijah E. Cummings
Chairman
Committee on Oversight and Reform



Harley Rouda
Chairman
Subcommittee on Environment

Enclosure

cc: The Honorable Jim Jordan, Ranking Member,
Committee on Oversight and Reform

The Honorable James Comer, Ranking Member,
Subcommittee on Environment

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term "including" shall be construed broadly to mean "including, but not limited to."
5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.
7. The term "related to" or "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term "individual" means all natural persons and all persons or entities acting on their behalf.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 06 2019

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
U.S. House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

On behalf of the U.S. Environmental Protection Agency, I am writing in response to your letter dated February 13, 2019, seeking information about Administrator Andrew Wheeler's prior work for Faegre Baker Daniels Consulting.

Specifically, you referenced Mr. Wheeler's participation in a meeting with Darling Ingredients on June 26, 2018, and whether such participation violated the ethics commitments required of executive branch appointees by Executive Order 13770.¹ While Mr. Wheeler did participate in a meeting with Darling Ingredients on June 26, 2018, that meeting did not violate Executive Order 13770. Under Paragraph 6 of Executive Order 13770, appointees are prohibited from participating "in any particular matter involving specific parties" that is directly and substantially related to a former employer or former client for two years after appointment.² "Former client" is defined as "any person for whom the appointee served personally as agent, attorney, or consultant within the two years prior to the date of his or her appointment."³

Mr. Wheeler was appointed as Deputy Administrator on April 20, 2018. He did not personally provide lobbying services to Darling Ingredients after April 20, 2016, within the two years prior to the date of his appointment. Thus, Darling Ingredients is not considered a "former client" of Mr. Wheeler's under Paragraph 6 of the Executive Order, and Mr. Wheeler's participation in a meeting with Darling Ingredients on June 26, 2018 was not a violation of his ethical commitments required by the Executive Order.

Mr. Wheeler takes seriously his ethics obligations under Executive Order 13370. Mr. Wheeler previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and has been

¹ Exec. Order No. 13770, Ethics Commitments by Executive Branch Appointees (Jan 28, 2017).

² *Id.* § 1, para. 6.

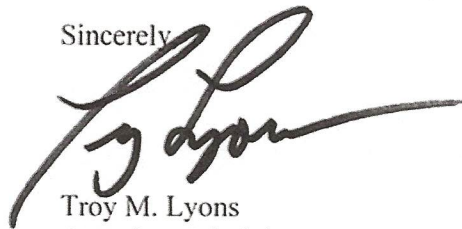
³ *Id.* § 2(i).

advised about his ethics obligations. The Designated Agency Ethics Official has reviewed and confirmed the accuracy of the information contained in this letter.

The Agency recognizes the importance of the Committee's need to obtain information necessary to perform its legitimate oversight functions and is committed to continuing to work with your staff on how best to accommodate the Committee's interests. We look forward to working with your staff to better understand your interests and priorities with respect to the information you have requested.

If you have further questions, you may contact me, or your staff may contact Travis Voyles in the EPA's Office of Congressional and Intergovernmental Relations at Voyles.Travis@epa.gov or (202) 564-6399.

Sincerely,

A handwritten signature in dark ink, appearing to read 'T. Lyons', with a long horizontal flourish extending to the right.

Troy M. Lyons
Associate Administrator

cc: The Honorable Jim Jordan, Ranking Member



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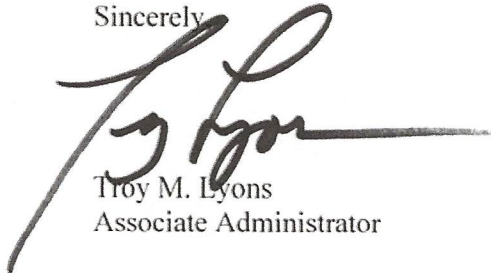
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As your letter indicates, before entering federal service, Administrator Wheeler submitted a financial disclosure report to the Office of Government Ethics on August 12, 2017, as required when nominated for the Senate-confirmed position of Deputy Administrator. As you may be aware, Administrator Wheeler's nomination was returned to the White House at the end of 2017 as the Senate had not yet acted on the nomination. Administrator Wheeler was renominated in January of 2018. When the Senate voted to confirm Administrator Wheeler as Deputy Administrator on February 29, 2018, the information contained in the financial disclosure report was accurate.

After thoroughly reviewing records, Faegre determined that the firm billed Darling Ingredients just over \$5,000 in 2015 for Administrator Wheeler's representation. Further, the firm determined that it did not bill Darling Ingredients for any representation by Administrator Wheeler after July 7, 2015. Enclosed is documentation from Faegre detailing the final billing information related to Administrator Wheeler's representation of Darling Ingredients. The firm also confirmed that while Administrator Wheeler was listed on the lobbying report for the representation of Darling Ingredients by Faegre for the fourth quarter of 2015 and the first quarter of 2016, he did not represent the company and did not bill for any services during that time. The enclosed letter further indicates that in 2015 the firm collected \$5,444.41 for Administrator Wheeler's representation of Darling Ingredients. This amount exceeds the \$5,000 reporting threshold by \$444.41.

Administrator Wheeler was previously unaware that his billing in 2015 for Darling Ingredients exceeded \$5,000. If the Committee is requesting that the Administrator's two-year-old form be updated to reflect the extra \$441.41 billed then he will do so. Administrator Wheeler's current Public Financial Disclosure Report, filed on December 5, 2018 when he was nominated as Administrator, is accurate. As I am sure you are aware, the Administrator did not list Darling Ingredients on this form because he did not receive any financial compensation from the company after July 7, 2015.

This additional information provided by Faegre also confirms that Administrator Wheeler's participation in any meetings Darling Ingredients, and particularly the meeting on June 26, 2018 that the Committee referenced in its February 13, 2019 letter, did not violate the ethics commitments required of executive branch appointees by Executive Order 13770.¹ As the Agency stated in our April 6, 2019 response, under Paragraph 6 of Executive Order 13770, appointees are prohibited from participating "in any particular matter involving specific parties" that is directly and substantially related to a former employer or former client for two years after appointment.² Administrator Wheeler was appointed as Deputy Administrator on April 20, 2018. He did not personally provide lobbying services to Darling Ingredients after July 7, 2015, which is well outside of the two years prior to the date of his appointment. Thus, Darling Ingredients is not considered a "former client" of Mr. Wheeler's under Paragraph 6 of the Executive Order, and Mr. Wheeler's participation in a meeting with Darling Ingredients on June 26, 2018 was not a violation of his ethical commitments required by the Executive Order.

Administrator Wheeler takes seriously his ethics obligations and as previously stated, the Administrator consulted with the career officials in the Office of General Counsel and has been advised about his ethics obligations. The Designated Agency Ethics Official has reviewed and confirmed the accuracy of the information contained in this letter.

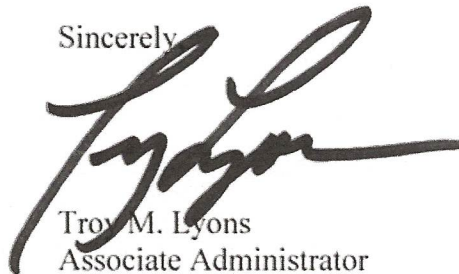
The EPA appreciates the Committee's interest in these matters. However, the manner in which the Committee is attempting to obtain information from the Agency deviates from the standard accommodation process. Since providing a response to the Committee's February 13, 2019 letter the Agency did not hear from the Committee again until two months later on April 23, 2019. Further, the Committee's most recent letter mischaracterizes the Agency's response as a decision to "withhold" documents. These approaches are unnecessary, and it is counterproductive to threaten compulsory process to obtain information without engaging with the EPA first. In the future, we urge the Committee to engage in an earnest and good faith effort to obtain information. With regard to this matter, the Agency believes that it has provided the information necessary to fulfill the Committee's request and a briefing would not be beneficial in providing additional information.

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If you have further questions on this matter, you may contact me, or your staff may contact Travis Voyles in the EPA's Office of Congressional and Intergovernmental Relations at Voyles.Travis@epa.gov or (202) 564-6399.

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Enclosure

cc: The Honorable Jim Jordan, Ranking Member



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Administrator Wheeler takes seriously his ethics obligations and as previously stated, the Administrator consulted with the career officials in the Office of General Counsel and has been advised about his ethics obligations. The Designated Agency Ethics Official has reviewed and confirmed the accuracy of the information contained in this letter.

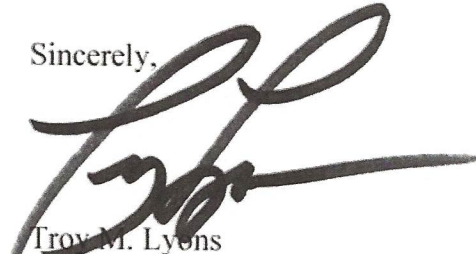
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Specifically, you referenced Mr. Wheeler's participation in a meeting with Darling Ingredients on June 26, 2018, and whether such participation violated the ethics commitments required of executive branch appointees by Executive Order 13770.¹ While Mr. Wheeler did participate in a meeting with Darling Ingredients on June 26, 2018, that meeting did not violate Executive Order 13770. Under Paragraph 6 of Executive Order 13770, appointees are prohibited from participating "in any particular matter involving specific parties" that is directly and substantially related to a former employer or former client for two years after appointment.² "Former client" is defined as "any person for whom the appointee served personally as agent, attorney, or consultant within the two years prior to the date of his or her appointment."³

Mr. Wheeler was appointed as Deputy Administrator on April 20, 2018. He did not personally provide lobbying services to Darling Ingredients after April 20, 2016, within the two years prior to the date of his appointment. Thus, Darling Ingredients is not considered a "former client" of Mr. Wheeler's under Paragraph 6 of the Executive Order, and Mr. Wheeler's participation in a meeting with Darling Ingredients on June 26, 2018 was not a violation of his ethical commitments required by the Executive Order.

Mr. Wheeler takes seriously his ethics obligations under Executive Order 13370. Mr. Wheeler previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and has been

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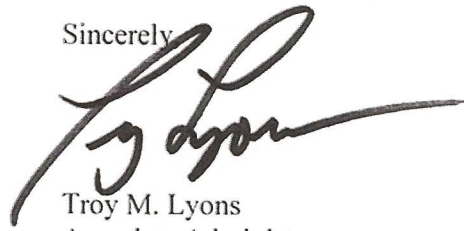
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The Agency recognizes the importance of the Committee's need to obtain information necessary to perform its legitimate oversight functions and is committed to continuing to work with your staff on how best to accommodate the Committee's interests. We look forward to working with your staff to better understand your interests and priorities with respect to the information you have requested.

If you have further questions, you may contact me, or your staff may contact Travis Voyles in the EPA's Office of Congressional and Intergovernmental Relations at Voyles.Travis@epa.gov or (202) 564-6399.

Sincerely,

A handwritten signature in dark ink, appearing to read "T. Lyons", with a long horizontal flourish extending to the right.

Troy M. Lyons
Associate Administrator

cc: The Honorable Jim Jordan, Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 06 2019

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Harley Rouda
Chairman
Subcommittee on Environment
Committee on Oversight and Reform
U.S. House of Representatives
Washington, D.C. 20515-6143

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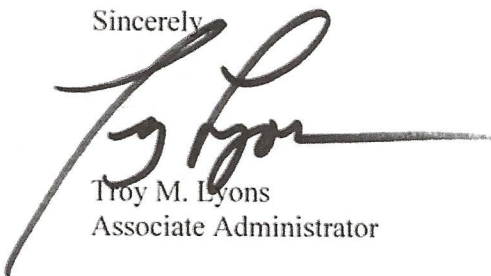
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 15 2019

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
U.S. House of Representatives
Washington, D.C. 20515

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The Agency is committed to being responsive to the Committee's inquiries and has responded to the Committee's request with two previous letters on March 6, 2019 and April 30, 2019. Additionally, EPA staff have provided Committee staff updates as soon as they become available. Enclosed is an additional production of documents responsive to your February 13, 2019 request.

Again, as the Agency detailed in our April 30, 2019 response, the additional information provided by Faegre confirms that Administrator Wheeler's participation in any meetings Darling Ingredients, and particularly the meeting on June 26, 2018 that the Committee referenced in its February 13, 2019 letter, did not violate the ethics commitments required of Executive Branch appointees by Executive Order 13770.¹

Please note that this production contains documents that reveal internal Agency information. Therefore, we have added a header and footer to these documents that reads "Internal Document of the U.S. EPA; Disclosure Authorized Only to the Committee on Oversight and Reform for Oversight Purposes." Through this accommodation, the EPA does not waive any confidentiality interests in these documents or similar documents in other circumstances.

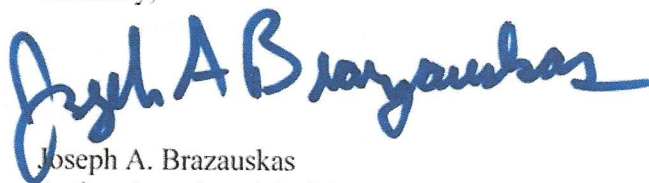
The EPA respectfully requests that the Committee and staff protect the documents and the information contained in them from further dissemination. Should the Committee determine that its legislative mandate requires further distribution of this confidential information outside the

¹ Exec. Order No. 13770, Ethics Commitments by Executive Branch Appointees (Jan 28, 2017).

Committee, we request that such need is first discussed with the EPA to help ensure the Executive Branch's confidentiality interests are protected.

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Joseph A. Brazauskas
Acting Associate Administrator

Enclosure

cc: The Honorable Jim Jordan, Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 15 2019

OFFICE OF
CONGRESSIONAL AND
INTERGOVERNMENTAL
RELATIONS

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Chairman
Subcommittee on Environment
Committee on Oversight and Reform
U.S. House of Representatives
Washington, D.C. 20515

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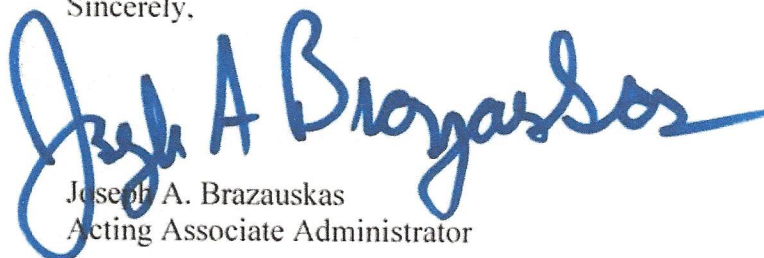
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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

February 13, 2019

The Honorable Andrew R. Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator Wheeler:

The Committee is requesting documents relating to potential conflicts of interest arising from your work as a lobbyist for Faegre Baker Daniels Consulting (Faegre) in the two years before you were confirmed as Deputy Administrator of the Environmental Protection Agency (EPA).

Before your appointment as Deputy Administrator, from 2009 to 2017, you worked as a lobbyist for Faegre.¹ According to quarterly disclosure reports filed by Faegre, you engaged in lobbying activities on behalf of Darling Ingredients, Inc. from April 1, 2015, to May 31, 2016.² These reports, filed throughout 2015 and 2016, indicate that Darling paid \$270,000 to Faegre for the lobbying services provided by you and two other employees at the firm during this period.³

The Senate confirmed your nomination to serve as Deputy Administrator on April 12, 2018, and you were sworn in on April 20, 2018.⁴

The Ethics in Government Act requires federal officials to disclose the source of any compensation greater than \$5,000 in any of the two calendar years prior to the reporting year and to provide "a brief description of the nature of the duties performed or services rendered by the

¹ Faegre Baker Daniels Consulting, *Andrew R. Wheeler* (online at <https://web.archive.org/web/20180413001117/https://www.faegrebd.com/andrew-wheeler>) (accessed Feb. 11, 2019).

² FaegreBD Consulting, *Second Quarter 2015 to Second Quarter 2016 Lobbying Disclosure Reports on Behalf of Darling International* (online at <https://bit.ly/2TKV8j4>) (accessed Feb. 12, 2019).

³ *Id.*

⁴ Environmental Protection Agency, *U.S. Senate Confirms Andrew Wheeler to Serve as Deputy EPA Administrator* (Apr. 12, 2018) (online at www.epa.gov/newsreleases/us-senate-confirms-andrew-wheeler-serve-deputy-epa-administrator); Environmental Protection Agency, *Andrew Wheeler Just Sworn in Today as Our New Deputy Administrator. Welcome Back to the EPA!* (Apr. 20, 2018) (online at twitter.com/epa/status/987383700773048321?lang=en).

reporting individual for each such source.”⁵ On August 12, 2017, you submitted your financial disclosure report to the Office of Government Ethics for the period between January 1, 2015, to August 12, 2017, but you did not report Darling Ingredients as a source of compensation.⁶

In addition, as a condition of your appointment under Executive Order 13770, you are prohibited from participating “in any particular matter involving specific parties” that is directly and substantially related to your former employer or former clients for two years after your appointment.⁷

On June 26, 2018, your calendar shows that you met with representatives from Darling Ingredients in your capacity as Deputy Administrator.⁸ Your direct participation in this meeting appears to violate Executive Order 13770 and contradict your expressed commitment to follow those provisions during your government service.⁹

For these reasons, we request that you produce the following documents by February 27, 2019:

1. Documents sufficient to show your total compensation for lobbying activities conducted on behalf of Darling Ingredients from January 1, 2015, to August 12, 2017;
2. A complete list of all meetings you attended with representatives of Darling Ingredients from April 20, 2018, to the present;
3. All documents referring or relating to any meeting you attended with representatives of Darling Ingredients from April 20, 2018, to the present;
4. All documents and communications between you and any EPA employee referring or related to Darling Ingredients from April 20, 2018, to the present;
5. All documents and communications between you and employees or agents of Darling Ingredients from April 20, 2018, to the present;

⁵ 5 U.S.C. app. § 102(a)(6).

⁶ Andrew Wheeler, *Executive Branch Personnel Public Financial Disclosure Report* (Aug. 12, 2017) (online at www.documentcloud.org/documents/4387529-Andrew-Wheeler-Financial-Disclosure.html).

⁷ Exec. Order No. 13770, 82 Fed. Reg. 9333 (Feb. 3, 2017) (online at www.federalregister.gov/documents/2017/02/03/2017-02450/ethics-commitments-by-executive-branch-appointees).

⁸ Environmental Protection Agency, *Calendar for Andrew Wheeler, Acting Administrator* (June 26, 2018) (online at www.epa.gov/senior-leaders-calendars/calendar-andrew-wheeler-acting-administrator).

⁹ Letter from Andrew Wheeler, Deputy Administrator, Environmental Protection Agency, to E. Scott Pruitt, Administrator, Environmental Protection Agency (May 24, 2018) (online at apps.washingtonpost.com/g/documents/national/epa-acting-administrator-andrew-wheelers-recusal-letter/3134/).

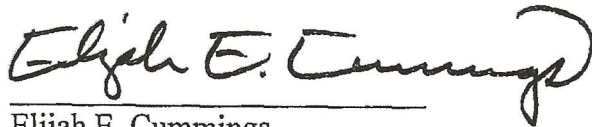
6. A list of all clients you represented as a lobbyist during the two years prior to your appointment as Deputy Administrator of the EPA; and
7. A list of all the agencies you lobbied during the two years prior to your appointment, with a description of any matters you worked on during that time.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to this request. If you have any questions, please contact Committee staff at (202) 225-5051.

Thank you for your prompt attention to this request.

Sincerely,



Elijah E. Cummings
Chairman
Committee on Oversight and Reform



Harley Rouda
Chairman
Subcommittee on Environment

Enclosure

cc: The Honorable Jim Jordan, Ranking Member,
Committee on Oversight and Reform

The Honorable James Comer, Ranking Member,
Subcommittee on Environment

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGDATE, BEGTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term "including" shall be construed broadly to mean "including, but not limited to."
5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.
7. The term "related to" or "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term "individual" means all natural persons and all persons or entities acting on their behalf.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 06 2019

OFFICE OF CONGRESSIONAL
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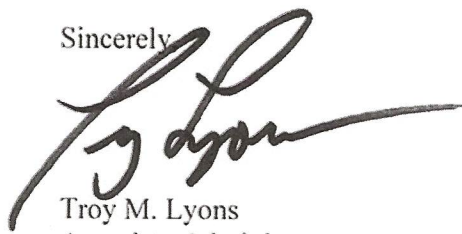
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Troy M. Lyons
Associate Administrator

cc: The Honorable Jim Jordan, Ranking Member



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WASHINGTON, D.C. 20460

MAR 06 2019

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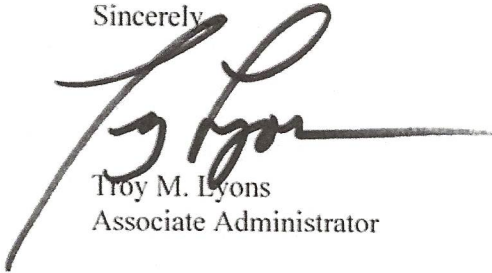
⁶ *Id.* § 2(i).

advised about his ethics obligations. The Designated Agency Ethics Official has reviewed and confirmed the accuracy of the information contained in this letter.

The Agency recognizes the importance of the Committee's need to obtain information necessary to perform its legitimate oversight functions and is committed to continuing to work with your staff on how best to accommodate the Committee's interests. We look forward to working with your staff to better understand your interests and priorities with respect to the information you have requested.

If you have further questions, you may contact me, or your staff may contact Travis Voyles in the EPA's Office of Congressional and Intergovernmental Relations at Voyles.Travis@epa.gov or (202) 564-6399.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Lyons", with a long horizontal flourish extending to the right.

Troy M. Lyons
Associate Administrator

cc: The Honorable James Comer, Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 30 2019

OFFICE OF
CONGRESSIONAL AND
INTERGOVERNMENTAL
RELATIONS

The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
U.S. House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

On behalf of the U.S. Environmental Protection Agency, I am writing in response to your letter dated April 23, 2019, seeking information about Administrator Andrew Wheeler's prior work for Faegre Baker Daniels Consulting (Faegre).

As your letter indicates, before entering federal service, Administrator Wheeler submitted a financial disclosure report to the Office of Government Ethics on August 12, 2017, as required when nominated for the Senate-confirmed position of Deputy Administrator. As you may be aware, Administrator Wheeler's nomination was returned to the White House at the end of 2017 as the Senate had not yet acted on the nomination. Administrator Wheeler was renominated in January of 2018. When the Senate voted to confirm Administrator Wheeler as Deputy Administrator on February 29, 2018, the information contained in the financial disclosure report was accurate.

After thoroughly reviewing records, Faegre determined that the firm billed Darling Ingredients just over \$5,000 in 2015 for Administrator Wheeler's representation. Further, the firm determined that it did not bill Darling Ingredients for any representation by Administrator Wheeler after July 7, 2015. Enclosed is documentation from Faegre detailing the final billing information related to Administrator Wheeler's representation of Darling Ingredients. The firm also confirmed that while Administrator Wheeler was listed on the lobbying report for the representation of Darling Ingredients by Faegre for the fourth quarter of 2015 and the first quarter of 2016, he did not represent the company and did not bill for any services during that time. The enclosed letter further indicates that in 2015 the firm collected \$5,444.41 for Administrator Wheeler's representation of Darling Ingredients. This amount exceeds the \$5,000 reporting threshold by \$444.41.

Administrator Wheeler was previously unaware that his billing in 2015 for Darling Ingredients exceeded \$5,000. If the Committee is requesting that the Administrator's two-year-old form be updated to reflect the extra \$441.41 billed then he will do so. Administrator Wheeler's current Public Financial Disclosure Report, filed on December 5, 2018 when he was nominated as Administrator, is accurate. As I am sure you are aware, the Administrator did not list Darling Ingredients on this form because he did not receive any financial compensation from the company after July 7, 2015.

This additional information provided by Faegre also confirms that Administrator Wheeler's participation in any meetings Darling Ingredients, and particularly the meeting on June 26, 2018 that the Committee referenced in its February 13, 2019 letter, did not violate the ethics commitments required of executive branch appointees by Executive Order 13770.¹ As the Agency stated in our April 6, 2019 response, under Paragraph 6 of Executive Order 13770, appointees are prohibited from participating "in any particular matter involving specific parties" that is directly and substantially related to a former employer or former client for two years after appointment.² Administrator Wheeler was appointed as Deputy Administrator on April 20, 2018. He did not personally provide lobbying services to Darling Ingredients after July 7, 2015, which is well outside of the two years prior to the date of his appointment. Thus, Darling Ingredients is not considered a "former client" of Mr. Wheeler's under Paragraph 6 of the Executive Order, and Mr. Wheeler's participation in a meeting with Darling Ingredients on June 26, 2018 was not a violation of his ethical commitments required by the Executive Order.

Administrator Wheeler takes seriously his ethics obligations and as previously stated, the Administrator consulted with the career officials in the Office of General Counsel and has been advised about his ethics obligations. The Designated Agency Ethics Official has reviewed and confirmed the accuracy of the information contained in this letter.

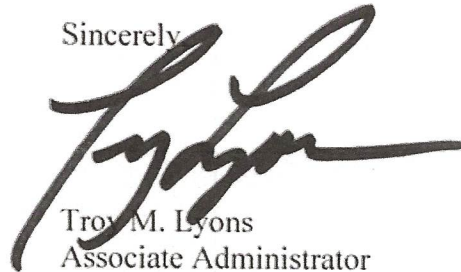
The EPA appreciates the Committee's interest in these matters. However, the manner in which the Committee is attempting to obtain information from the Agency deviates from the standard accommodation process. Since providing a response to the Committee's February 13, 2019 letter the Agency did not hear from the Committee again until two months later on April 23, 2019. Further, the Committee's most recent letter mischaracterizes the Agency's response as a decision to "withhold" documents. These approaches are unnecessary, and it is counterproductive to threaten compulsory process to obtain information without engaging with the EPA first. In the future, we urge the Committee to engage in an earnest and good faith effort to obtain information. With regard to this matter, the Agency believes that it has provided the information necessary to fulfill the Committee's request and a briefing would not be beneficial in providing additional information.

¹ Exec. Order No. 13770, Ethics Commitments by Executive Branch Appointees (Jan 28, 2017).

² *Id.* § 1, para. 6.

If you have further questions on this matter, you may contact me, or your staff may contact Travis Voyles in the EPA's Office of Congressional and Intergovernmental Relations at Voyles.Travis@epa.gov or (202) 564-6399.

Sincerely

A handwritten signature in dark ink, appearing to read "Lyons", with a long horizontal flourish extending to the right.

Troy M. Lyons
Associate Administrator

Enclosure

cc: The Honorable Jim Jordan, Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 30 2019

OFFICE OF
CONGRESSIONAL AND
INTERGOVERNMENTAL
RELATIONS

The Honorable Harley Rouda
Chairman
Subcommittee on Environment
Committee on Oversight and Reform
U.S. House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

On behalf of the U.S. Environmental Protection Agency, I am writing in response to your letter dated April 23, 2019, seeking information about Administrator Andrew Wheeler's prior work for Faegre Baker Daniels Consulting (Faegre).

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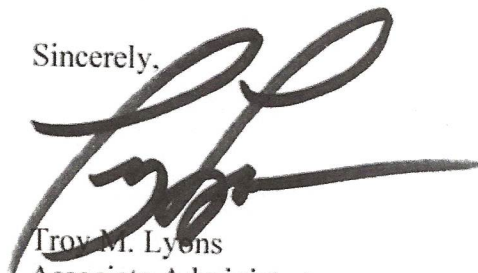
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If you have further questions on this matter, you may contact me, or your staff may contact Travis Voyles in the EPA's Office of Congressional and Intergovernmental Relations at Voyles.Travis@epa.gov or (202) 564-6399.

Sincerely,



Troy M. Lyons
Associate Administrator

cc: The Honorable James Comer, Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 15 2019

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the U.S. Environmental Protection Agency, I am writing in response to your letter dated February 13, 2019, seeking information about Administrator Andrew Wheeler's prior work for Faegre Baker Daniels Consulting (Faegre).

The Agency is committed to being responsive to the Committee's inquiries and has responded to the Committee's request with two previous letters on March 6, 2019 and April 30, 2019. Additionally, EPA staff have provided Committee staff updates as soon as they become available. Enclosed is an additional production of documents responsive to your February 13, 2019 request.

Again, as the Agency detailed in our April 30, 2019 response, the additional information provided by Faegre confirms that Administrator Wheeler's participation in any meetings Darling Ingredients, and particularly the meeting on June 26, 2018 that the Committee referenced in its February 13, 2019 letter, did not violate the ethics commitments required of Executive Branch appointees by Executive Order 13770.¹

Please note that this production contains documents that reveal internal Agency information. Therefore, we have added a header and footer to these documents that reads "Internal Document of the U.S. EPA: Disclosure Authorized Only to the Committee on Oversight and Reform for Oversight Purposes." Through this accommodation, the EPA does not waive any confidentiality interests in these documents or similar documents in other circumstances.

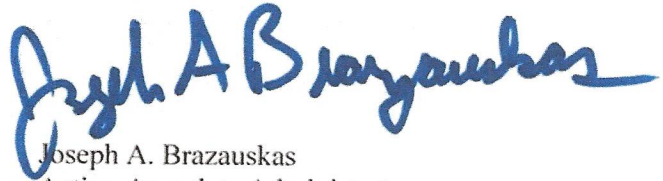
The EPA respectfully requests that the Committee and staff protect the documents and the information contained in them from further dissemination. Should the Committee determine that its legislative mandate requires further distribution of this confidential information outside the

¹ Exec. Order No. 13770, Ethics Commitments by Executive Branch Appointees (Jan 28, 2017).

Committee, we request that such need is first discussed with the EPA to help ensure the Executive Branch's confidentiality interests are protected.

The Agency recognizes the importance of the Committee's need to obtain information necessary to perform its legitimate oversight functions and is committed to continuing to work with your staff on how best to accommodate the Committee's interests. If you have further questions, you may contact me, or your staff may contact Travis Voyles in the EPA's Office of Congressional and Intergovernmental Relations at Voyles.Travis@epa.gov or (202) 564-6399.

Sincerely,



Joseph A. Brazauskas
Acting Associate Administrator

Enclosure

cc: The Honorable Jim Jordan, Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 15 2019

OFFICE OF
CONGRESSIONAL AND
INTERGOVERNMENTAL
RELATIONS

The Honorable Harley Rouda
Chairman
Subcommittee on Environment
Committee on Oversight and Reform
U.S. House of Representatives
Washington, D.C. 20515

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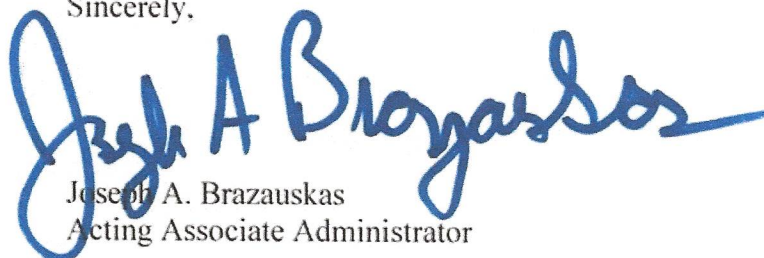
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Sincerely,

A handwritten signature in blue ink, reading "Joseph A. Brazauskas". The signature is fluid and cursive, with the first name "Joseph" written in a large, stylized script. The last name "Brazauskas" is also written in a cursive style, with the "s" at the end being particularly prominent and extending to the right.

Joseph A. Brazauskas
Acting Associate Administrator

Enclosure

cc: The Honorable James Comer, Ranking Member